

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEROME COOK,

Plaintiff,

v.

UNITED STATES OF AMERICA and
DEPARTMENT OF VETERANS
AFFAIRS,

Defendants.

8:19CV527

ORDER

This matter is before the Court on defendants United States of America (the “government”) and Department of Veterans Affairs’s (“VA” and collectively, “defendants”) Motion to Dismiss the VA for lack of subject-matter jurisdiction, *see* Fed. R. Civ. P. 12(h)(3), and Motion to Strike Jury Demand (Filing No. 27), *see* Fed. R. Civ. P. 39(a)(2). When plaintiff Jerome Cook (“Cook”) did not timely respond to the defendants’ motion, the Court issued an Order to Show Cause (Filing No. 30) why the Court should not dismiss the VA and strike Cook’s jury demand.

On June 29, 2020, Cook responded (Filing No. 31) to the Court’s Order to Show Cause and filed a “Notice of Dismissal without Prejudice against Defendant [VA] Only and Withdrawal of Jury Demand” (Filing No. 32). Cook requests that the Court enter an order dismissing the VA without prejudice, with no costs to either party, if the Court finds dismissal under Federal Rule of Civil Procedure 41(a)(2) is appropriate. Cook also “remove[d] and withdr[ew] his request for a jury demand.” The defendants have not responded to Cook’s requests.

On careful review, the Court finds the VA should be dismissed from this case without prejudice for lack of subject-matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3); Fed.

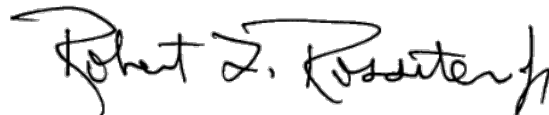
R. Civ. P. 41(a)(2). The Court further finds Cook's jury demand should be stricken. *See* Fed. R. Civ. P. 39(a)(2). Accordingly,

IT IS ORDERED:

1. Plaintiff Jerome Cook's request that the Court dismiss defendant Department of Veterans Affairs and allow him to withdraw his jury demand (Filing No. 32) is granted.
 - a. Cook's claims against the Department of Veterans Affairs are dismissed without prejudice, with each party to bear its own costs, fees, and expenses.
 - b. Cook's jury demand is stricken.
2. Defendants United States of America and Department of Veterans Affairs's Motion to Dismiss and Motion to Strike Jury Demand (Filing No. 27) is denied as moot.

Dated this 17th day of July 2020.

BY THE COURT:

A handwritten signature in black ink, reading "Robert F. Rossiter, Jr." with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge